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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of
Telephone Number Portability

)
) CC Docket No. 95-116
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**FURTHER COMMENTS OF THE ASSOCIATION
FOR LOCAL TELECOMMUNICATIONS SERVICES**

Pursuant to the Public Notice of Proposed Rulemaking released March 14, 1996, in the above docket (DA 96-358), the Association for Local Telecommunications Services ("ALTS") hereby files these further comments concerning the effect on the Commission's existing Telephone Number Portability docket (10 FCC Rcd 12350 (1996)) of the recent passage of the Telecommunications Act of 1996 ("'96 Act"), Pub.L. 104-104, 110 Stat. 46 (1996).

**I. ALTS IS DIRECTLY AFFECTED BY THE COMMISSION'S
RESOLUTION OF THE NUMBER PORTABILITY ISSUE.**

ALTS is the non-profit national trade organization representing competitive providers of local telecommunications services. ALTS' membership includes over thirty non-dominant providers of competitive access and local exchange services which deploy innovative technologies in many metropolitan and suburban areas across the country. ALTS, as well as several of its individual members, participated actively in the Commission proceedings which gave rise to expanded interconnection (Expanded

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Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141; "Expanded Interconnection"), in the Commission's Telephone Number Portability docket (10 FCC Rcd 12350 (1996)), and its members are directly affected by the Commission's implementation of the duty of number portability imposed under Sections 251 and 271 of the '96 Act.

II. THE '96 ACT REQUIRES THE COMMISSION TO ADDRESS INTERIM NUMBER PORTABILITY AS WELL AS PERMANENT NUMBER PORTABILITY.

The '96 Act requires the Commission to adopt regulations dealing with both interim and permanent service provider number portability. Section 251(b)(2) imposes on all local exchange carriers the duty: "... to provide to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Section 251(d) requires the Commission to adopt regulations implementing Section 251. And Section 271(c)(2)(B)(xi) illuminates the meaning of Section 251(b)(2) by requiring those RBOCs seeking to provide in-region interLATA service to offer:

"Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations."

These statutory provisions demonstrate that the Commission's regulations must address both full and interim portability. First, Section 271(c)(2)(B)(xi) reveals Congress' clear

understanding of both full and interim number portability solutions, and its recognition of the clear need for interim solutions until such time as full portability is implemented.

Second, the underlying operation of Section 271(c)(2)(B)(xi) also emphasizes the importance of the roles played by each approach. In Section 271(c)(2)(B)(xi), Congress required that RBOCs seeking in-region interLATA authority must provide interim solutions even prior to the issuance of Commission regulations, and also ordered the RBOCs to comply with such regulations once issued. If the Commission's regulations failed to require interim portability in addition to full portability, and if full number portability were not available immediately upon the issuance of the regulations (and instead, as seems much more likely, were ordered implemented pursuant to a schedule), then those RBOCs providing interim portability pursuant to Section 272(c)(2)(B)(xi) could terminate such interim arrangements once the regulations were issued, and cease offering any form of number portability until the ultimate implementation of full portability.

Clearly, such an absurd result underscores Congress' intent that the Commission's regulations require both full and interim number portability, and that the availability of each be properly coordinated.

**III. THE COMMISSION SHOULD IMMEDIATELY ENTER A FINDING
PURSUANT TO THE '96 ACT THAT INTERIM AND FULL
NUMBER PORTABILITY ARE EACH "TECHNICALLY FEASIBLE."**

It is manifest that full service provider number portability, as well as interim portability, are each "technically feasible" within the meaning of Section 251(b)(2). Full number portability is clearly feasible given the industry's technical consensus concerning the Location Routing Number ("LRN") approach in Illinois, Georgia and New York,¹ and also the Georgia Commission's recent order implementing LRN.² Thus, there is no reason for any delay by the Commission in entering a finding under the '96 Act that full number portability is now technically feasible.

The "technical feasibility" of interim portability is also apparent, because versions of interim portability are already implemented in several jurisdictions.³ It is apparent that the

¹ Provision of Universal Service, NYPSC 94-C-0095 (released January 4, 1996).

² Local Telephone Number Portability Under Section 2 of the Telecommunications Competition and Development Act of 1995, GA Docket No. 5840-U (released February 20 1996) (also involving the LRN form of the "n-1" data dip architecture).

³ Washington Utilities and Transportation Comm'n v. U S WEST, Fourth Supplemental Order, Docket No. UT-941464, released October 31, 1995, at 55: "The Commission ... believes that in the interim, less than perfect number portability needs to be available" See also In the Matter of the Application of Electric Lightwave, Inc. For a Certificate of Authority to Provide Telecommunications Services in Oregon, CP 1, CP 14, CP 15, released January 12, 1996, at 78: "For the present, interim number portability should be offered by allowing AECs to use RCF or DNRI technology. The evidence indicates that these methods have a number of technical limitations, but there appears to be general agreement that they

(continued...)

most effective forms of interim portability must be made available where alternative versions of interim portability are possible. Given Congress' understanding of the importance of interim portability discussed above, it makes no sense to permit an exchange provider to discharge its duty under Section 251(b)(2) by offering inferior versions of interim portability. In particular, the Commission's regulations should preserve all existing forms of interim portability which have been ordered by the states until they can be replaced by superior interim portability solutions based on SS-7 signaling, and thereby preserve as much vertical service functionality as possible.

IV. THE COMMISSION SHOULD IMPLEMENT THE '96 ACT BY ADOPTING A NATIONAL TECHNICAL AND COST RECOVERY PLAN BASED ON THE LRN APPROACH, AND SHOULD ORDER THAT EXISTING STATE NUMBER PORTABILITY INITIATIVES ALSO BE APPROVED IF THEY DO NOT IMPOSE UNDUE TECHNICAL OR ECONOMIC BURDENS.

The Commission's basic task under the portions of the '96 Act discussed above is to promptly adopt regulations creating a national number portability plan covering the basic functional

³(...continued)
will function well as an interim solution;" Joint Stipulation and Agreement, NYPSC 93-C-0103, at 47-48; Illinois Bell Telephone Company, Proposed Introduction of a Trial of Ameritech's Customers First Plan in Illinois, Docket Nos. 94-0096 et al., Order (April 7, 1995); MFS Intelenet of Maryland, Inc.; Case No. 8584 Phase II, Order No. 72348 (Dec. 28, 1995); Competition 2 Proceeding, Order Requiring Interim Number Portability Directing a Study of the Feasibility of a Trial of True Number Portability and Directing Further Collaboration, Case 94-C-0095 (March 8, 1995); and in Ohio the PUC has denied Ameritech's request to charge additional nonrecurring number portability fees for interim portability, limiting charges to \$1 per month for residential customers, and \$3.25 for business customers; Time Warner-AxS, of Ohio, L.D., and Time Warner Communications of Ohio, L.P. v. Ameritech of Ohio, Docket 96-CG-TP-CSS, decision dated March 21, 1996.

standards for service features, and cost recovery, for all aspects of number portability. The fundamental purpose of this plan should be simple: It should order that the LRN approach serve as a minimum "benchmark" for all state implementations of full number portability, while preserving the freedom of individual states to order even more pro-competitive approaches or schedules, provided: (1) individual state approaches provide, at a minimum, the same functionality, cost structure, and time schedules as would the "baseline" LRN solution; and, (2) individual state approaches can eventually be integrated into a national approach without undue technical or cost burdens.

Such a plan should also include robust interim portability rules, and requirements insuring that cost recovery is "on a competitively neutral basis" as required by Section 251(e).⁴ The cost recovery portion of the national plan should:

⁴ Washington Utilities and Transportation Comm'n v. U S WEST, Fourth Supplemental Order, Docket No. UT-941464, released October 31, 1995, at 55: "... the rate for those services should be set at the company's incremental costs. Interim number portability is a stopgap measure until permanent number portability can be established. Thus, there is no reasons for USWC to recover common costs from this service." See also In the Matter of the Application of Electric Lightwave, Inc. For a Certificate of Authority to Provide Telecommunications Services in Oregon, CP 1, CP 14, CP 15, released January 12, 1996, at 78: "From a pricing standpoint, we find that USWC and GTE should file interim number portability tariffs offering both the RCF and DNRI functions at a price equal to TSLRIC. Tariffs for RCF and DNRI should be filed with the Commission no later than 30 days from the date of this order. The tariffs filed by GTE and USWC may include a nonrecurring service provisioning charge, which should also be set at cost.;" Joint Stipulation and Agreement, NYPSC 93-C-0103, at 47-48.

- require that internal costs be borne by each participant, and external costs be bid out to third parties;⁵
- prohibit any recovery of internal or external costs through a separate bill item (which would unfairly stigmatize CLECs as the cause of the charge);⁶ and,
- provide that access charges flow to the entity providing service to the customer with a ported number, and not to any intervening carriers, or providers of data base inquiries.

The Commission's national plan needs to make it perfectly clear that sound economics requires that all lines capable of being ported, and not just lines which have been ported, or competitive provider lines, should bear equally in sharing costs. The introduction of robust competition in local exchange prices, services, and features will obviously benefit all the local exchange customers who are able to switch service providers, including those who never make changes. Consequently, all local exchange customers who gain the ability to port their numbers should contribute to the recovery of its incremental costs. The Commission should insure economically rational cost recovery for this service by stating in its Order it will preempt any attempt

⁵ In order to expedite the implementation of number portability, ALTS proposes that such costs be recovered on a per line basis, but ALTS points out there is considerable economic logic in recovering such costs according to net revenues.

⁶ The Commission has already encountered a charge designed to help implement competition which was recovered in a competitively neutral basis -- the Equal Access and Network Reconfiguration charge. Although AT&T had no direct benefit from competition, it paid its proportionate costs of converting local networks to equal access. The same principle should apply to the recovery of third-party number portability costs.

to allocate incremental number portability costs to any other group of customers, or solely to the competitors of existing monopoly providers.

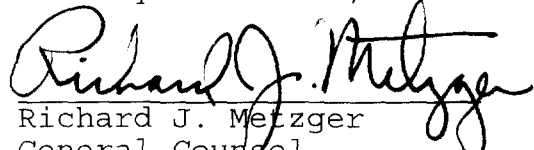
CONCLUSION

For the foregoing reasons, ALTS requests that the Commission:

- Recognize that the '96 Act requires prompt implementation of both interim and full service provider number portability;
- Acknowledge that full number portability is technically feasible now via the LRN approach adopted by Georgia and New York, and order its use (or its functional and economic equivalent) as a "benchmark" for prompt implementation in all states; and,
- Implement the '96 Act's requirement of neutral cost recovery by requiring all carriers to bear their internal costs, requiring bidding out of third party costs, and requiring that all lines with numbers capable of being ported contribute to recovery of third party costs.

Respectfully submitted,

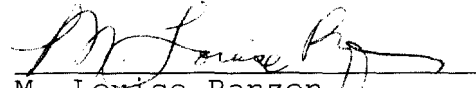
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I hereby certify that the foregoing Further Comments of the Association for Local Telecommunications Services was served March 29, 1996, on the following persons by first-class mail or hand service, as indicated.


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